



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-146, National and state banks, mutual savings banks, savings and loan associations and other financial institutions**

Date last reviewed: **November 9, 2000**

Reviewer: **Gilbert Brewer**

Date current review completed: **October 10, 2002**

Briefly explain the subject matter of the document(s):

The rule explains the application of the B&O, retail sales, and use tax to banking and other financial businesses that make loans.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)



	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
X		Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

The prior review recommended that the decision in *Simpson Investment Co. v. Dept. of Revenue*, be incorporated into the rule. While that was a reasonable suggestion at the time of the prior review, recent statutory amendments have legislatively overruled provisions of the *Simpson* decision. The rule should be amended to reflect the new statutory amendments, not the *Simpson* decision. In particular, the rule should reflect the B&O deductions available to a financial business as revised by Chapter 150, Laws of 2002 (codified at RCW 82.04.4281).

The recent statutory changes also led to the cancellation of ETA 571.04.169 -- Taxability of investment income. The prior review had recommended its incorporation into the rule (but cited it as ETA 571.04.146/109). Since the ETA has been cancelled, no further action is needed.

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):



ETA 574.08.198, Financial institutions incurring bad debts on contract assignments

Court Decisions:

***Dept. of Revenue v. Security Pacific Bank*, 109 Wn. App. 795, 38 P.3d 354 (2002) -- Bank qualified for RCW 82.04.4292 residential mortgage interest deduction where, as security for a line of credit supplied to a mortgage company, it obtained a beneficial interest in residential first deeds of trust obtained by the mortgage company**

Board of Tax Appeals Decisions (BTAs):

Appeals Division Decisions (WTDs):

Det No. 01-185, 21 WTD 180 (2002) -- where loan originator sells loans to secondary investors at a discount, discounts do not qualify as deductible "cash discounts"

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

Chapter 150, Laws of 2002

5. Review Recommendation:

- | | |
|--------------|---|
| <u> X </u> | Amend |
| _____ | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| _____ | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| _____ | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).



I agree with the prior reviewer's recommendations. The only change I recommend is to incorporate the substance of Chapter 150, Laws of 2002, instead of the now outdated *Simpson* decision.

6. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4